



United States Department of the Interior

NATIONAL PARK SERVICE

National Mall and Memorial Parks
900 Ohio Drive, S.W.
Washington, D.C. 20024



March 10, 2017

Record of Determination for a Partial and Temporary Closure of the Northeast Corner of Constitution Gardens for Construction

Pursuant to 36 C.F.R. § 1.5, the National Park Service is imposing a partial and temporary closure of at Constitution Gardens for the construction in the northeast corner of Constitution Gardens. Specifically, as depicted in the attached map and as further delineated by fencing, the northeast corner of Constitution Gardens will be closed from approximately 6:00 a.m. on Wednesday, March 16, 2017 through 6:00 p.m. on Wednesday, February 28, 2018. This area includes sidewalks at the SW corner of 17th St. and Constitution Avenue and walkways to the paved plaza at the east end of the lake, and about half of the plaza. The end date may be extended due to changes to personnel or material requirements, or weather. Unauthorized entry or activity is prohibited in this area while it is closed.

Because the construction and associated activities do not reasonably permit multiple occupancy, the general public will not be permitted in the closed areas of Constitution Gardens. And if additional areas in Constitution Gardens need to be closed and fenced for construction activities there, this record of decision will be amended to reflect the additional closure. In the event, such additional closures are necessary, persons are to immediately remove themselves and any personal property from these additional closed area(s).

This temporary and partial closure is not of a nature, magnitude and duration that will result in a significant alteration in the public use pattern, insofar as these construction activities are necessary for the relocation of the Lockkeeper's House and improving the surrounding landscaping and entrance plaza to Constitution gardens. Consistent with Park Service regulations, persons wishing to demonstrate may continue to use the remaining open park areas, as well as the northwest portion of the Constitution Gardens' Plaza, which will remain open. Indeed, consistent with public safety, park areas subject to this decision, but not needed for construction and related activities will remain open unless a closure is later deemed necessary. Closed areas will be marked by fences and or signage, traffic cones and other barriers. Given the safety and security protections necessary in the closed areas for such construction and associated

activities, less restrictive measures will not suffice. Alternate walkways will be clearly identified for pedestrians on signage in the area and an unobstructed pedestrian walk will be provided through the plaza to accommodate access to the WWII Memorial from Constitution Avenue. Further, the closures will not adversely affect the parks' natural, aesthetic or cultural values, does not require significant modification to the resource management objections, and is not of a highly controversial nature since this is similar to closures that occurred in past.

Accordingly, pursuant to 36 C.F.R. § 1.5(b), publication as rulemaking in the Federal Register is unwarranted. This is consistent with hundreds of past partial and temporary park closures, the legal opinion of the Office of the Solicitor, and judicial adjudications. Picciotto v. United States, No. 99-2113 (D.D.C.) (park closure); Picciotto v. United States, No. 94-1935 (D.D.C.) (park closure); Picciotto v. Lulan, No. 90-1261 (D.D.C.) (park closure); Picciotto v. Hodel, No. 87-3290 (D.D.C.) (park closure); Mahoney v. Norton, No.02-1715 (D.D.C.), plaintiffs' emergency motion for injunction pending appeal denied Mahoney v. Norton, No.02-5275 (D.C.Cir.)(per curiam)(public use limitation).

Pursuant to 36 C.F.R. § 1.7, notice of this temporary and partial closure will be made through media advisories, fencing and posting of signs at conspicuous locations in the affected park area. Finally, pursuant to 36 C.F.R. § 1.5(c), this determination is available to the public upon request.



3/10/17

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Gay E. Vietzke
Superintendent, National Mall and Memorial Parks

Attachment: Constitution Gardens' Construction Map